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BELL, BOYD & LLOYD LLC			RADA, ALEX P	
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			3714	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,396

Applicant(s)

HEDRICK ET AL.

Examiner

Alex P. Rada

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) 41-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/21/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-40, drawn to a gaming device, classified in class 463, subclass 37.
 - II. Claims 41-62, drawn to method of making a gaming device, classified in class 312, subclass 223.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a wireless remote control to operate a gaming device. See MPEP § 806.05(d).
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
5. During a telephone conversation with Adam H. Masia Reg. No. 35,602 on June 20, 2005 a provisional election was made without traverse to prosecute the invention of group I, claims 1-40. Affirmation of this election must be made by applicant in replying to this Office action. Claims 41-62 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the elements of claims 10-11 and 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 36-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Cordell (US 2004/0140617).

10. Cordell discloses the following:

A cabinet (12), a game operable upon a wager (52), a processor (46) operable to control the game, and a switch connected extendably, in which the examiner interprets the remote controller (14) to be a functional equivalent to a switch connected extendably and retractably to the cabinet via a cord and a

mechanism operable to enable the cord to be pulled by a person to multiple extended positions and then released by the person, wherein the cord in each of the extended positions will thereafter recoil automatically (figures 1-4) as recited in claim 36.

One of the extended positions is a fully extended position (figure 2 and paragraphs 28-32) as recited in claim 37.

The mechanism recoils the cord automatically to a fully retracted position unless reset at an intermediate position by the person (figure 2 and paragraphs 28-32) as recited in claim 38.

The mechanism is spring activated (figure 2 and paragraphs 28-32) as recited in claim 39.

The multiple extended positions are first positions and which includes a plurality of second positions defined by the mechanism, each of the second positions operable to be self-maintaining when the switch is released from the person's grasp (figure 2 and paragraphs 28-32) as recited in claim 40.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMar et al. (US 6,270,410) in view of Hughes, IV (US 6,120,025).

13. DeMar et al discloses the following:

A cabinet (18), a game operable upon a wager (52), a processor operable to control the game (46), and a switch connected extendably to the cabinet, in which the examiner interprets the remote control to be an equivalent to a switch connected extendably to the cabinet (figure 2), the switch having a relatively rigid housing (figures 1-2) and the switch operable with the processor to control a function of the game (figures 1-2) as recited in claim 1.

The switch is of a type selected from the group consisting of: maintained, momentary and multi-position, in which the examiner interprets the buttons on the remote control to be an equivalent to the switch is of a type selected from the group consisting of: maintained, momentary and multi-position as recited in claim 2.

The switch includes multiple buttons that operate multiple functions of the game, in which the examiner interprets the remote control (90) to be an equivalent to the switch includes multiple buttons that operate multiple functions of the game as recited in claim 3.

The elastomeric cover is adhered to the housing (figures 1-2) as recited in claim 4.

The housing mechanically holds the cover in place (figures 1-2) as recited in claim 5.

The housing includes a multi-piece housing, in which the examiner interprets the different parts that make up the remote control to be an equivalent to multi-piece housing (figure 2) as recited in claim 6.

The multiple pieces each mechanically holds the cover in place, in which the examiner interprets the combination of the different parts that make up the remote control to be an equivalent to the multiple pieces each mechanically holds the cover in place (figure 2) as recited in claim 8.

The function is selected from the group consisting of: a play function, a bet increment function, a max-bet function, a repeat the bet function, and a cash out function (column 3, line 63 - column 4, line 22 and figures 1-2) as recited in claim 9.

The cord is flexible cord (92) as recited in claim 13.

A strain relief wire positioned inside the cord to prevent the cord from unduly stretching, in which the examiner interprets the metal braided cable to be a functional equivalent to a strain relief as recited in claim 14.

The switch is a play button or a bet button (column 3, line 63 - column 4, line 22 and figures 1-2) as recited in claim 15

DeMar does not expressly disclose the following:

A relatively elastomeric cover disposed on the housing as recited in claim 1.

The pieces are molded separately and wherein one of the pieces is co-molded with the cover as recited in claim 7.

The elastomeric cover housing is simultaneously cured as recited in claim 11.

Having first and second materials co-molded in position with respect to a portion of the cord as recited in claim 12.

The second material includes an elastomeric cover that is molded to the rigid housing after the first material has cured as recited in claims 10 and 16.

The first material is a rigid material selected from a group consisting of urethane, plastic, polyvinyl chloride, polyvinyl acetate and acrylic as recited in claim 17.

The second material is a flexible material selected from a group consisting of synthetic rubber, natural rubber and foam products as recited in claim 18.

Hughes, IV teaches the following:

A relatively elastomeric cover disposed on the housing, in which the examiner interprets the covering material (110) to be an equivalent to a relatively elastomeric cover disposed on the housing as recited in claim 1.

The pieces are molded separately and wherein one of the pieces is co-molded with the cover, in which the examiner interprets the covering material (110) to be one of the pieces is co-molded with the cover as recited in claim 7.

The elastomeric cover housing is simultaneously cured, in which the examiner interprets the covering materials conforming to the contours of the control capable of being simultaneously cured as recited in claim 11.

Having first and second materials co-molded in position with respect to a portion of the cord, in which the examiner interprets the covering material (110) covering the controller to be an equivalent to first and second materials co-molded in position with respect to a portion of the cord (figures 1-11) as recited in claim 12.

The second material includes an elastomeric cover that is molded to the rigid housing after the first material has cured, in which the examiner interprets the covering material (110) being placed on the controller to be an equivalent to the second material includes an elastomeric cover that is molded to the rigid housing after the first material has cured (figures 1-11) as recited in claims 10 and 16.

The first material is a rigid material selected from a group consisting of urethane, plastic, polyvinyl chloride, polyvinyl acetate and acrylic as recited in claim 17.

The second material is a flexible material selected from a group consisting of synthetic rubber, natural rubber and foam products (column 6, lines 22-31) as recited in claim 18.

By having elastomeric material disposed on the housing, one of ordinary skill in the art would provide a non-slip grip for the user, enabling more effective use of the controller.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify DeMar et al to include all of the limitations discussed above as taught by Hughes, IV to provide a non-slip grip for the user, enabling more effective use of the controller.

14. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMar et al. (US 6,270,410) in view of Hughes, IV (US 6,120,025) as applied to claim 12 above, and further in view of Cordell (US 2004/0140617).

15. DeMar et al in view of Hughes, IV disclose the claimed invention as discussed above except for the following:

The extendable switch is also retractable via a spring housed inside the cabinet as recited in claim 19.

The spring loaded switch can be set at least one extended position via a ratcheting mechanism as recited in claim 20.

Cordell teaches the following:

The extendable switch (14) is also retractable via a spring housed inside the cabinet (figures 1-4) as recited in claim 19.

The spring loaded switch can be set at least one extended position via a ratcheting mechanism (figures 1-4) as recited in claim 20. By having a retractable remote controller, one of ordinary skill in the art would allow customers to remotely control the gaming machine from a comfortable distance away from the gaming machine while standing or reclining, or otherwise sitting, in a chair, stool, etc.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify DeMar et al to include an extendable switch is also retractable via a spring housed inside the cabinet and the spring loaded switch can be set at least one extended position via a ratcheting mechanism as taught by Cordell to customers to remotely control the gaming machine from a comfortable distance away from the gaming machine while standing or reclining, or otherwise sitting, in a chair, stool, etc.

16. Claims 21 and 25-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cordell (US 2004/0140617) in view of Hughes, IV (US 6,120,025).

17. Cordell discloses the following:

A cabinet (12), a game operable upon a wager (52), a processor (46) operable to control the game, and a switch connected extendably, and retractably to the cabinet via a cord, in which the examiner interprets the remote controller (14) to be a functional equivalent to the a switch extendably and retractably to the cabinet via a cord and a spring, wherein the spring causes the

switch and cord to retract (figures 1-4 and summary) as recited in claim 21.

The spring is a coil spring that uncoils as the switch and cord are extended and recoils as the switch and cord are retracted (figure 2 and paragraphs 28-32) as recited in claim 25.

The spring and cord are attached to a rotating member that meters-out and rolls-up the cord when the switch and cord are extended and retracted, respectively (figure 2 and paragraphs 28-32) as recited in claim 26.

The electrical wires extending from within the cord attach electrically to the rotating member (figure 2 and paragraphs 28-32) as recited in claim 27.

The rotating member makes electrical contact with a stationary member via electrical traces provided on one of the members and at least one electrical connector provided on the other of the members (figure 2 and paragraphs 28-32) as recited in claim 28.

A strain relief cable attached to the member and the switch, the cable fixing substantially an overall length of the cord, in which the examiner interprets the braided cable to be a functional equivalent to a strain relief cable (figure 2 and paragraphs 28-32) as recited in claim 29.

A spring loaded pawl fixed translationally with respect to the ratchet, the pawl operable to lock the ratchet into a fixed rotational position, in which the examiner interprets the braking device (100) to be a functional equivalent to a spring loaded pawl fixed translationally with respect to the ratchet, the pawl operable to lock the ratchet into a fixed rotational position (figure 2 and paragraphs 28-32) as recited in claim 30.

The pawl is operable to lock the ratchet when the ratchet rotates in a cord extending direction but not lock the ratchet when the ratchet rotates in a cord recoiling direction, in which the examiner interprets the braking device (100) to be a functional equivalent to the pawl is operable to lock the ratchet when the ratchet rotates in a cord extending direction but not lock the ratchet when the ratchet rotates in a cord recoiling direction (figure 2 and paragraphs 28-32) as recited in claim 31.

The ratchet defines at least one area that is configured not to engage a locking member, the area operable to commence recoiling of the spring-loaded switch, in which the examiner interprets the braking device (100) to be a functional equivalent to the ratchet defines at least one area that is configured not to engage a locking member, the area operable to commence recoiling of the spring-loaded switch (figure 2 and paragraphs 28-32) as recited in claim 32.

The ratchet is arranged so that the non-engagement area is adjacent to the locking member when the switch is pulled to a fully extended position, in which the examiner interprets the braking device (100) to be a functional equivalent to the ratchet is arranged so that the non-engagement area is adjacent to the locking member when the switch is pulled to a fully extended position (figure 2 and paragraphs 28-32) as recited in claim 33.

A tension setting device operable to increase or decrease the force applied by the spring, in which the examiner interprets the braking device to be a functional equivalent to tension setting device operable to increase or decrease the force applied by the spring (paragraph 31-32) as recited in claim 34.

A locking member operable to be moved by a person to fix the tension setting device at a desired position (paragraph 31-32) as recited in claim 35.

Cordell does not expressly disclose expressly the following:

A ratchet and the ratchet operates to lock the switch and cord in at least one extended position as recited in claim 21.

Cordell does disclose the following:

A braking device (100) that releaseably engages the braking surface on the side of the shoulder of reel element and an actuator in the solenoid that engages the braking pad to selectively engage and disengage the reel element to be a functional equivalent to the

operation of the ratchet and pawl. By having a braking device, one of ordinary skill in the art would provide the same function of allowing a user to extend and retract a controller to a desired length without exceeding the maximum length of the cord.

18. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cordell (US 2004/0140617) in view of Hughes, IV (US 6,120,025).

19. Cordell further discloses the following:

The switch includes a relatively rigid housing and the switch operable with the processor to control a function of the game, in which the examiner interprets the switch to be an equivalent to the remote controller (figures 1-4) as recited in claim 22.

The function is selected from the group consisting of: a play function, a bet increment function, a max-bet function, a repeat the bet function, and a cash out function (paragraph 28 and figure 1) as recited in claim 23.

Cordell discloses the claimed invention as discussed above except for the following:

A relatively elastomeric cover disposed on the housing as recited in claim 22.

The elastomeric cover is disposed on the housing via adhesion, mechanically or via a molding process as recited in claim 24.

Hughes, IV teaches the following:

A relatively elastomeric cover disposed on the housing, in which the examiner interprets the covering material (110) to be an equivalent to a relatively elastomeric cover disposed on the housing as recited in claim 22.

The elastomeric cover is disposed on the housing via adhesion, mechanically or via a molding process (column 6, lines 33-53 and figures 4a and 7) as recited in claim 24. By having elastomeric material disposed on the housing, one of ordinary skill in the art would provide a non-slip grip for the user, enabling more effective use of the controller.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Cordell to include a relatively elastomeric cover disposed on the housing and the elastomeric cover is disposed on the housing via adhesion, mechanically or via a molding process as taught by Hughes, IV to provide a non-slip grip for the user, enabling more effective use of the controller.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Purnell (US 5,011,149), Akeripa (US 2002/0123381), Mayhew (US 5,168,969), Mesa (US D474,183), Leatherman (SU 5,913,487), and Rogers (5,489,010) disclose different types of extendable and retractable devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JESSICA HARRISON
PRIMARY EXAMINER